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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

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**UNITED STATES OF AMERICA,** **CR 17-116-BLG-SPW**

**Plaintiff,**

**vs.**

**BRIAN ALBERT BENTZ,**

**Defendant.**

**OFFER OF PROOF**

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The United States, represented by Assistant U.S. Attorney John D. Sullivan, files the following offer of proof in anticipation of the change of plea hearing set in this case on July 13, 2018.

## **THE CHARGES**

The defendant, Brian Albert Bentz, is charged by indictment in count I with conspiracy to possess with intent to distribute and to distribute methamphetamine, in violation of 21 U.S.C. § 846, and in count II with possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1).

## **PLEA AGREEMENT**

There is a plea agreement in this case. The defendant will plead guilty to count I of the indictment. The United States presented all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 133 (2012).

## **ELEMENTS OF THE CHARGE**

In order for the defendant to be found guilty of conspiracy to possess with intent to distribute and to distribute methamphetamine, in violation of 21 U.S.C. § 846, the United States must prove each of the following elements beyond a reasonable doubt:

First, beginning in or about January 2016 and ending in or about April 2016, there was an agreement between two or more persons to possess with the intent to distribute and to distribute a substance containing a detectable amount of methamphetamine.

Second, the defendant joined in the agreement knowing of its purpose and intending to help accomplish at least one object of the conspiracy.

Additionally, while not a formal element of the offense, the United States must also prove beyond a reasonable doubt that the amount of methamphetamine falling within the scope of the conspiracy, or that was reasonably foreseeable to the defendant, was 500 grams or more

To “possess with intent to distribute” means to possess with intent to deliver or transfer possession of methamphetamine to another person, with or without any financial interest in the transaction

## **PENALTIES**

Count I of the indictment carries a mandatory minimum punishment of 10 years to life imprisonment, a \$10,000,000 fine, at least five years of supervised release, and a \$100 special assessment.

## **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

In March 2016, agents with the Eastern Montana HIDTA and FBI TOC-West task forces received information about an individual distributing methamphetamine in the Billings area. That individual (“the source of supply”) was later arrested on April 7, 2016, and cooperated with law enforcement. That cooperation culminated in the seizure of approximately 2.75 pounds of methamphetamine throughout the Billings area. The source of supply indicated

that he/she had given one ounce of methamphetamine to the defendant, Brian Bentz, on the morning of April 7.

Agents later identified where Bentz was staying and secured his room pending the application for a search warrant. Prior to the warrant application, however, three individuals exited the hotel room, including Bentz. He was detained and during a pat down for weapons a plastic baggie with suspected methamphetamine fell from his waistline area. Bentz had an outstanding warrant for his arrest at the time, and when he was being escorted to a patrol vehicle he informed the arresting officer that he had an additional baggie in his pants pocket. The contents of the baggies recovered from Bentz were later tested by the DEA Western Laboratory and found to contain approximately 39 grams of actual methamphetamine.

The source of supply was interviewed again on September 29, 2017, following his/her conviction for possession with intent to distribute methamphetamine. He/she recounted how he/she had obtained between five and six pounds of methamphetamine from his/her source of supply over several months in 2016. Of that total, the source of supply stated that Bentz had been selling up to three ounces of methamphetamine per day for him/her between January or February 2016 and April 2016.

DATED this 12th day of July, 2018.

KURT G. ALME  
United States Attorney

/s/ John D. Sullivan  
JOHN D. SULLIVAN  
Assistant U.S. Attorney